



County of Los Angeles
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

425 Shatto Place, Los Angeles, California 90020
(213) 351-5602

DAVID SANDERS, Ph.D.
Director

Board of Supervisors

GLORIA MOLINA
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MICHAEL D. ANTONOVICH
Fifth District

March 21, 2006

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**REQUEST TO APPROVE AMENDMENT NUMBER TWO FOR CONSENT TO
ASSIGNMENT AND DELEGATION OF RIGHTS FROM LOS ANGELES
ORPHANS HOME SOCIETY (HOLLYGROVE) TO EASTFIELD MING QUONG, INC.
(EMQ)
(ALL SUPERVISORIAL DISTRICTS) (3 VOTES)**

1. Approve the assignment and delegation of all rights and duties of Los Angeles Orphans Home Society doing business as Hollygrove (HOLLYGROVE) to Eastfield Ming Quong Inc. (EMQ) under the existing Foster Family Agency (FFA) Agreement effective upon the merger. This merger is contingent upon the issuance of a FFA license to EMQ to operate a FFA in Los Angeles County by California Department of Social Services (CDSS), Community Care Licensing Division (CCLD).
2. Approve a change in the majority of the Board of Directors of EMQ, which upon the merger (the currently anticipated merger effective date is April 1, 2006) with Hollygrove, will increase to twenty-nine (29) directors.
3. Delegate authority to the Director of the Department of Children and Family Services (DCFS) to execute Amendment Number Two to Hollygrove's FFA Agreement, acknowledging the assignment and delegation of all rights and duties from Hollygrove to EMQ. The Amendment will be executed upon issuance of a new license by CDSS, CCLD, but no sooner than April 1, 2006, (the currently anticipated merger effective date). This amendment has no fiscal impact.

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

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FILED

4. Instruct the Director of DCFS to notify your Board and the Chief Administrative Office (CAO) in writing within (10) ten business days of executing Amendment Number Two.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommendations is to request your Board's consent to the assignment and delegation of the FFA Agreement from Hollygrove to EMQ, and to the change of EMQ's Board of Directors, effective no sooner than April 1, 2006, which is the currently anticipated date of merger. This request is contingent upon the issuance of a foster family agency (FFA) license formerly held by Hollygrove to EMQ to operate a FFA in Los Angeles County, as EMQ is located in Santa Clara County. If the required license is not issued by April 1, 2006, a new merger date will be selected. Hollygrove and EMQ have jointly indicated that they are seeking this assignment and delegation of rights from Hollygrove to EMQ in order to realize a number of benefits that include, but not limited to, facilitating a more complete continuum of care; enhancing program development; and for long-term economic benefits. Hollygrove will cease to exist as a legal entity effective upon the receipt of the new license by EMQ and merger, and all documents, responsibilities, and obligations will be transferred from Hollygrove to EMQ. The Agreement of merger between EMQ and Hollygrove is attached as Attachment A. EMQ as the surviving entity will assume all past, present, and future financial responsibilities and obligations of Hollygrove. The County consents to the merger with the understanding that the quantity and quality of services previously provided separately by Hollygrove will not be diminished.

Implementation of Strategic Plan Goals

The recommended actions are consistent with the principles of the Countywide Strategic Plan, Goal #5, Children and Families Well-Being. The recommended actions will enable the surviving agency to continue providing effective and efficient services to children and families in Los Angeles County.

FISCAL IMPACT/FINANCING

There is no fiscal impact associated with this Amendment. Funding has already been included in the FY 2005-06 Adopted Budget for FFA services.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Hollygrove has a contract with the County to provide FFA services through August 31, 2006. Hollygrove and EMQ plan to merge effective April 1, 2006, with EMQ as the surviving entity and Hollygrove as the disappearing agency. EMQ's headquarter is located at 251 Llewellyn Ave., Campbell, CA., in Santa Clara County.

Foster family agencies recruit, certify and train foster parents, provide support to foster parents, and find temporary or permanent homes for children who require more

structure than that provided in a family home. EMQ will operate the FFA program in Los Angeles County at Hollygrove's existing site.

CDSS will issue a new license in EMQ's name to the Hollygrove site. Considering EMQ does not currently operate in the Los Angeles County, this will expand EMQ's services to Los Angeles County.

The Boards of Directors of Hollygrove and EMQ voted to merge and become a single agency. The Boards of Directors of EMQ and Hollygrove will combine to become one Board of Directors with twenty-nine (29) directors.

The two agencies believe that this merger will result in a number of benefits to their collective employees as well as the clients they serve. The anticipated benefits include a more complete continuum of care; enhanced program development; long-term economic benefits; broadened geographic scope; increased employment opportunities; and increased strategic options through combined programs and facilities.

DCFS has evaluated EMQ for fiscal viability, and deems the agency to be responsible. EMQ is in compliance with all Board and CAO requirements.

County Counsel and the CAO have reviewed this Board letter. County Counsel has approved the attached Amendment as to form.

CONTRACTING PROCESS

This Amendment does not require any additional contracting process. DCFS is in compliance with the Board's Policy and Guidelines on Contractor Mergers/Acquisition adopted on December 13, 2005, in the review and analysis of the merger and its impact on services provided to the County.

IMPACT ON CURRENT SERVICES

The approval of this Amendment will facilitate the continued provision of out-of-home placement care services to children and their families. The merger of the two agencies will not present a noticeable change in services since staff and employees from Hollygrove, who are currently providing services, upon the merger, will become employees of EMQ.

The Honorable Board of Supervisors
March 21, 2006
Page 4

CONCLUSION

Upon approval and execution of the Amendment Number Two by the Board, it is requested that the Executive Officer/Clerk of the Board send an adopted copy of the Board Letter and copies of noted Amendment to:

Department of Children and Family Services
Contracts Administration
Attention: Walter Chan, Manager
425 Shatto Place, Room 400
Los Angeles, CA 90020

Respectfully submitted,



DAVID SANDERS, Ph.D.,
Director

DS:SN:ng

Attachments (2)

c: Chief Administrative Office
Auditor-Controller
County Counsel

**AMENDMENT NUMBER TWO
TO AGREEMENT FOR FOSTER FAMILY AGENCY FOR
FOSTER CARE SERVICES WITH
LOS ANGELES ORPHANS HOME SOCIETY**

This Amendment Number Two to the Agreement for Foster Family Agency for Foster Care Services between Los Angeles Orphans Home Society dba Hollygrove ("HOLLYGROVE") and the County of Los Angeles ("COUNTY") is made and entered into by and between COUNTY and HOLLYGROVE on this ____ day of _____, 2006.

WHEREAS, COUNTY and HOLLYGROVE entered into a written Agreement for Foster Family Agency for Foster Care Services on September 1, 2003, as amended by Amendment Number One on November 17, 2005 (collectively referred to as "AGREEMENT"); and

WHEREAS, Section 22.0, CHANGES AND AMENDMENTS of the AGREEMENT provides that changes may be made in the form of a written amendment which is formally approved and executed by both parties; and

WHEREAS, Section 23.0, ASSIGNMENT/DELEGATION OF RIGHTS of the AGREEMENT prohibits HOLLYGROVE from delegating its duties or assigning its rights hereunder without prior written consent of the Los Angeles County Board of Supervisors; and

WHEREAS it is the intent of the parties hereto to amend the AGREEMENT to make the changes described hereinafter; and

WHEREAS, COUNTY has been informed that on April 1, 2006, Eastfield Ming Quong, Inc., (EMQ) will acquire the assets and liabilities of HOLLYGROVE, including those under the HOLLYGROVE AGREEMENT; and

WHEREAS, COUNTY has reviewed the corporate documents submitted by EMQ and other data, and has confirmed that EMQ can effectively provide the services and assume the duties set forth in HOLLYGROVE AGREEMENT; and

WHEREAS all other terms, conditions, responsibilities, and liabilities remain unchanged and shall remain in full force and effect; and

NOW THEREFORE, in consideration of the forgoing and mutual consents herein, the AGREEMENT is amended as follows:

1. Effective April 1, 2006, COUNTY acknowledges the change of corporate ownership from HOLLYGROVE to EMQ. Accordingly, the Agreement formerly between COUNTY and HOLLYGROVE shall be between COUNTY and EMQ.
2. All Contractor rights and responsibilities under the AGREEMENT are assigned and delegated by HOLLYGROVE to EMQ effective April 1, 2006, by virtue of Agreement of Merger between HOLLYGROVE and EMQ.

3. EMQ has assumed all obligations and liabilities of HOLLYGROVE by virtue of the above transfer.
4. EMQ is in a position to fully perform all obligations that may exist under the HOLLYGROVE AGREEMENT.
5. EMQ agrees to be bound by and to perform under the HOLLYGROVE AGREEMENT and any prior agreements with COUNTY in accordance with the conditions contained in the HOLLYGROVE AGREEMENT and any prior agreements with the COUNTY.
6. EMQ assumes all obligations and liabilities of, and all claims against HOLLYGROVE, including but not limited to, those under the HOLLYGROVE AGREEMENT, and any prior agreements, as if EMQ were the original party to the HOLLYGROVE AGREEMENT.
7. EMQ ratifies all previous actions taken by HOLLYGROVE under the HOLLYGROVE AGREEMENT, and any prior agreements, with the same force and effect as if the action had been taken by EMQ.
8. COUNTY recognizes EMQ as HOLLYGROVE'S successor in interest in and to the HOLLYGROVE AGREEMENT. EMQ by this Amendment Number Two becomes entitled to all rights, titles, and interests of HOLLYGROVE in and to the HOLLYGROVE AGREEMENT as if EMQ were the original party to the HOLLYGROVE AGREEMENT. Following the effective date of this Agreement, the term "CONTRACTOR", as used in the HOLLYGROVE AGREEMENT shall refer to EMQ.
9. All payments and reimbursements previously made by COUNTY to HOLLYGROVE, and all other previous actions taken by COUNTY under the HOLLYGROVE AGREEMENT, shall be considered to have discharged those parts of COUNTY's obligation under the HOLLYGROVE AGREEMENT. All payments and reimbursements made by COUNTY after the date of this Amendment in the name of or to EMQ shall have the same force and effect as if made to HOLLYGROVE, and shall constitute a complete discharge of COUNTY's obligation under the HOLLYGROVE AGREEMENT, to the extent of the amounts paid or reimbursed.
10. Effective April 1, 2006, any payments due under the HOLLYGROVE AGREEMENT from COUNTY for services which have not yet been paid shall be paid to EMQ.
11. EMQ will assume responsibility for any and all audit exceptions applied at any time against HOLLYGROVE through any of HOLLYGROVE agreements with COUNTY, or any department thereof. EMQ will assume responsibility for the audit exceptions whether assessed by Federal, State, or County audit(s). Audit exceptions may arise and become payable before and after the effective date of the merger and the cessation of existence of HOLLYGROVE. The parties agree that the applicable review and dispute resolution procedures under the contract at issue shall apply.

12. All inadvertent future references to HOLLYGROVE or Los Angeles Orphans Home Society, under this AGREEMENT, shall be deemed references to EMQ.
13. Except as expressly provided in this Amendment Number Two, nothing in it shall be construed as a waiver of any rights of COUNTY against HOLLYGROVE.
14. Section 21.0 NOTICES, Subsection 21.1 is deleted in its entirety and replaced to read as follows:

21.1 Unless otherwise specifically provided in this Agreement, all notices to COUNTY shall be given in writing, sent by certified mail, return receipt requested, by enclosing the same in a sealed envelope with postage prepaid in the United States Post Office or any substation or public letterbox. All notices sent to COUNTY shall be sent by certified mail, return receipt requested in duplicate addressed to the following:

Department of Children and Family Services
Contracts Administration
Attention: Contracts Administrator
425 Shatto Place, Room 400
Los Angeles, California 90020

Unless otherwise specifically provided in this Agreement, all notices to CONTRACTOR shall be given in writing, by enclosing the same in a sealed envelope addressed to the intended party and by depositing such envelope with postage prepaid in the United States Post Office or any substation or public letterbox. All notices to CONTRACTOR shall be sent to CONTRACTOR:

Eastfield Ming Quong, Inc.
251 Llewellyn Avenue
Campbell, CA 95008
Attention: F. Jerome Doyle

or such other person and/or location as may hereinafter be designated in writing by CONTRACTOR.

15. Section 23.0 ASSIGNMENT AND DELEGATION OF RIGHTS is deleted in its entirety and replaced to read as follows:

23.0 ASSIGNMENT BY CONTRACTOR

23.1 CONTRACTOR shall not assign its rights or delegate its duties under the Agreement, or both whether in whole or in part, without the prior written consent of COUNTY, in its discretion, and any attempted assignment of delegation without such consent shall be null and void. For purposes of this paragraph, COUNTY consent shall require a written amendment to the Agreement, which is formally approved

and executed by the parties. Any payments by COUNTY of any approved delegate or assignee or any claim under the Agreement shall be deductible, at COUNTY's sole discretion, against the claims which CONTRACTOR may have against COUNTY.

- 23.2 Shareholders, partners, members, or other equity holders of CONTRACTOR may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of CONTRACTOR to any person(s), corporation, partnership, or legal entity other than majority controlling interest therein at the time of execution of the Agreement, such disposition is an assignment requiring the prior written consent of COUNTY in accordance with applicable provisions of this Agreement.
- 23.3 Any withdrawal or change of shareholders, members, directors or other persons named on CONTRACTOR's Community Care license application (which significantly changes CONTRACTOR's program as it existed at the time of the execution of this Agreement) or any change in the licensee under CONTRACTOR's Community Care license is an assignment requiring COUNTY consent.
- 23.4 Any payments by COUNTY to CONTRACTOR or its assignee, or acceptance of any payments by COUNTY from CONTRACTOR or its assignee on any claim under this Agreement shall not waive or constitute COUNTY consent.
- 23.5 Upon assignment and/or delegation, each and all of the provisions, agreements, terms, covenants, and conditions herein contained, shall be binding upon both CONTRACTOR and upon any assignee/delegate thereof.
- 23.6 Any assumption, assignment, delegation, or takeover of any of the CONTRACTOR's duties, responsibilities, obligations, or performance of same by any entity other than the CONTRACTOR, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without COUNTY's express prior written approval, shall be a material breach of the Agreement which may result in the termination of the Agreement. In the event of such termination, COUNTY shall be entitled to pursue the same remedies against CONTRACTOR as it could pursue in the event of default by CONTRACTOR.

EXCEPT AS PROVIDED IN THIS AMENDMENT NUMBER TWO, ALL OTHER TERMS AND CONDITIONS OF THE AGREEMENT SHALL REMAIN IN FULL FORCE AND EFFECT

**AMENDMENT NUMBER TWO
TO AGREEMENT FOR FOSTER FAMILY AGENCY FOR
FOSTER CARE SERVICES WITH
LOS ANGELES ORPHANS HOME SOCIETY**

IN WITNESS WHEREOF, the Board of Supervisors of the COUNTY of Los Angeles has caused this Amendment Number Two to be subscribed on its behalf by the Director of the Department of Children and Family Services and the CONTRACTOR has subscribed the same through its authorized officers, as of the day, month and year first above written. The persons signing on behalf of the CONTRACTOR under penalty of perjury that they are authorized to bind the CONTRACTOR.

COUNTY OF LOS ANGELES

By _____
David Sanders, Ph. D.
Director, Department of Children and
Family Services

LOS ANGELES ORPHANS HOME SOCIETY
CONTRACTOR-ASSIGNOR

EASTFIELD MING QUONG, INC.
CONTRACTOR ASSIGNEE

By _____

Name _____

Title _____

By _____

Name _____

Title _____

Tax Identification Number

By _____

Name _____

Title _____

By _____

Name _____

Title _____

Tax Identification Number

APPROVED AS TO FORM:

BY THE OFFICE OF COUNTY COUNSEL
RAYMOND G. FORTNER JR., COUNTY COUNSEL

BY 
DEPUTY COUNTY COUNSEL

AGREEMENT OF MERGER

THIS AGREEMENT OF MERGER (the "Agreement") is dated for reference purposes January 17, 2006, and is entered into by and between LOS ANGELES ORPHANS HOME SOCIETY, a California nonprofit corporation (the "Disappearing Corporation" or "Hollygrove"), and EASTFIELD MING QUONG, INC., a California nonprofit corporation (the "Surviving Corporation" or "EMQ").

RECITALS

- A. Disappearing Corporation is a public benefit corporation with no members.
- B. Surviving Corporation is a public benefit corporation with no members.
- C. The parties hereby set forth the terms and conditions of a merger between them, subject to approvals as required by law and their articles and bylaws.

AGREEMENT

NOW THEREFORE, the parties agree as follows:

1. Statement of Merger.

a. The parties agree that on the Effective Date (defined below) Disappearing Corporation shall be merged into Surviving Corporation, the corporate existence of Surviving Corporation shall continue, and the separate corporate existence of Disappearing Corporation shall cease. The corporate identity, existence, purposes, rights, and immunities of Disappearing Corporation shall be merged into and vested in Surviving Corporation, and the corporate identity, existence, name, purposes, powers, rights, and immunities of Surviving Corporation shall continue unaffected and unimpaired by the merger.

b. Surviving Corporation shall be subject to all of Disappearing Corporation's debts, liabilities, and obligations, including but not limited to trust obligations, in the same manner as if Surviving Corporation had itself incurred them, and all rights of creditors and all liens and obligations on or arising from the property of each of the parties shall be preserved unimpaired, provided that such liens and obligations, if any, on the property of Disappearing Corporation shall be limited to the property affected thereby immediately prior to the Effective Date.

2. Articles and Bylaws. Surviving Corporation's articles of incorporation and bylaws in effect immediately preceding the Effective Date shall be and remain its articles of incorporation and bylaws until amended or repealed as provided by law.

3. Governance. The directors of EMQ (the "EMQ Directors") and the directors of Hollygrove (the "Hollygrove Directors") immediately prior to the Effective Date shall be the directors of the Surviving Corporation from and after the Effective Date until changed in

accordance with applicable law and the Surviving Corporation's articles of incorporation and bylaws. Notwithstanding the above, there shall be no more than 25 EMQ Directors and no more than 25 Hollygrove Directors on the Surviving Corporation's board as of the Effective Date. The Hollygrove Directors who become directors of the Surviving Corporation shall be deemed to be elected for a three-year term, with such term beginning on the Effective Date.

4. **Effective Date.** When all applicable laws have been complied with and all necessary authorizations, approvals, or consents have been received, a copy of this Agreement, together with an officer's certificate of each party, shall be submitted by Surviving Corporation to the California Secretary of State for filing. The merger between the parties shall become effective on the later of (a) the date of filing, or (b) April 1, 2006.

5. **Activities Before Effective Date.** Between the signing of this Agreement and the Effective Date or the date of termination, neither party shall, without the written consent of the other, engage in any activity or transaction other than in the ordinary course of its affairs, except as contemplated by this Agreement.

6. **Termination.** This Agreement may be terminated and the merger described herein abandoned at any time before the Effective Date by (a) the mutual consent of the parties' boards of directors, or (b) if in the opinion of the board of directors of either party, evidenced by a certified copy of resolutions of that board filed with the secretary of the other party, the merger is impractical or undesirable because of any of the following facts or circumstances: (i) a material and adverse change in the other party's activities, holdings, or financial position from what the terminating party's understanding was on the signing of this Agreement; (ii) an opinion of counsel that the merger could jeopardize the tax-exempt status of Surviving Corporation; or (iii) an inability to obtain any necessary approval. In such event, neither party to this Agreement nor its board of directors shall be liable to the other or its board of directors.

7. **Miscellaneous.**

a. This Agreement shall be construed in accordance with, and governed by, the laws of the State of California.

b. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

c. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by all the parties.

d. Each party to this Agreement agrees to perform any further acts and to execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

WHEREFORE, the parties have executed this Agreement on the reference date first above written.

Disappearing Corporation:

LOS ANGELES ORPHANS HOME
SOCIETY, a California nonprofit corporation

By Judith A. Nelson
Judith A. Nelson
President

By Jason Silletti
JASON SILLETTI
Secretary

Surviving Corporation:

EASTFIELD MING QUONG, INC.,
a California nonprofit corporation

By F. Jerome Doyle

CEO

By Jean F. Hopkins
Jean F. Hopkins
Secretary

**CERTIFICATE OF APPROVAL OF AGREEMENT OF MERGER OF
LOS ANGELES ORPHANS HOME SOCIETY**

JUDITH A NELSON and JASON SILETTI certify that:

1. They are the President and Secretary, respectively, of the Los Angeles Orphans Home Society, a California nonprofit public benefit corporation (the "Corporation").
2. The principal terms of the Agreement of Merger in the form attached (the "Agreement of Merger") were duly approved by the required vote by the board of directors of the Corporation.
3. The Corporation has no members.
4. No additional approval of the Agreement of Merger is required.
5. The Attorney General of California has been given prior written notice of this merger as required by law.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this Certificate are true and correct of our own knowledge.

Date: January 17, 2006

Hollygrove
by Judith A. Nelson
JUDITH A NELSON, President

Jason Silletti
JASON SILETTI, Secretary

**CERTIFICATE OF APPROVAL OF AGREEMENT OF MERGER OF
EASTFIELD MING QUONG, INC.**

F. Jerome Doyle and John F. Hopkins certify that:

1. They are the ^{CEO}~~President~~ and Secretary, respectively, of Eastfield Ming Quong, Inc., a California nonprofit public benefit corporation (the "Corporation").
2. The principal terms of the Agreement of Merger in the form attached (the "Agreement of Merger") were duly approved by the required vote by the board of directors of the Corporation.
3. The Corporation has no members.
4. No additional approval of the Agreement of Merger is required.
5. The Attorney General of California has been given prior written notice of this merger as required by law.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this Certificate are true and correct of our own knowledge.

Date: January 17, 2006

F. Jerome Doyle
CEO

John F. Hopkins
John F. Hopkins Secretary